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DISCRIMINATION AGAINST WOMEN

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 18 OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Second periodic reports of States parties

CHILE*

* For the initial report submitted by the Government of Chile, see CEDAW/C/CHI/1; for its consideration by the Committee, see CEDAW/C/SR.264 and CEDAW/C/SR.271, and *Official Records of the General Assembly, Fiftieth Session, Supplement No. 38* (A/50/38), paras. 105-159.

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Executive summary

The Convention on the Elimination of All Forms of Discrimination against Women was adopted by the United Nations General Assembly in 1979.

The Convention was ratified by Chile on 9 December 1989 and entered into force on 6 January 1990.

The initial report of Chile to the Committee on the Elimination of Discrimination against Women (CEDAW) was submitted in September 1991 (CEDAW/C/CHI/1).

The aim of this follow-up is to examine the progress achieved in the period from 1991 to 1995.

The main advances made by Chile in complying with the Convention during those years are:

- Consolidation and strengthening of the institutional framework of the national machinery for the advancement of women within the context of a stable democracy;

- Promulgation and implementation of the Domestic Violence Act and the signing of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women;

- Promulgation of the law establishing a new economic regime, improving the legal capacity of women;

- Decriminalization of adultery;

- Labour reforms which eliminate some forms of discrimination and improve the working conditions of women;

- Submission to Parliament of the filiation bill, which guarantees the equality of children before the law;

- Submission to Parliament of the draft law amending the definitions of the offences of rape, sexual assault and abduction;

- Preparation of the draft constitutional reform amending Article 1 of the Political Constitution relating to equality between men and women.

In addition to the legal and institutional advances made, it is important to mention in particular the adoption, by the Government of Chile, of an equal opportunities policy, the first instrument in pursuit of which is the Plan for Women's Equality, 1994-1999, whose implementation allows us to anticipate more significant progress in the next few years.

In accordance with the CEDAW guidelines, this report is divided into three parts: the first is an introduction; the second provides background information (general features of the country, situation of women, political and institutional framework of the country, review and prospects), and the third describes the status of implementation of the Convention on the Elimination of All Forms of Discrimination against Women, article by article.

I. INTRODUCTION

1. This document is an update of the report presented by Chile to the Committee on the Elimination of Discrimination against Women (CEDAW) in 1991 and adheres more closely to the Committee's guidelines. It sets out the main advances made in Chile's implementation of the Convention on the Elimination of All Forms of Discrimination against Women in the intervening period.

2. Following the submission of the preliminary report (CEDAW/C/CHI/1), there has been a change of government in Chile, with corresponding changes in the senior officials of the National Office for Women's Affairs (SERNAM), which is responsible for developing policies on behalf of women and the family. Since the present Government, like the previous one, has been administered by the Alliance of Parties for Democracy, it has been possible to achieve continuity in the work and a sustained momentum of progress.

3. Both this report and the preceding one were prepared by SERNAM, in consultation with the Ministry of Foreign Affairs.

4. It is important to point out that SERNAM was also entrusted with the preparation of the national report for the Fourth World Conference on Women, a task that involved extensive information-gathering and contacts with the different sectors of the State and civil society. The preliminary version of that document was used as a basis for drafting this additional report.

5. In order to meet the requirements set by CEDAW, the instructions regarding the presentation of general background information in a first part and an examination of the articles and the extent of implementation of the Convention in a second part have been adhered to.

II. BACKGROUND INFORMATION

A. General features of the country

1. Geographical description

6. Chile is located in South America and occupies on the map a narrow strip of land beginning to the north of the Tropic of Capricorn and ending in the Antarctic territory.

7. The country is in three continents: South America, Antarctica and Polynesia. It covers a total surface area of 2,006,626 km^2, of which 756,626 km^2 are located in the American continent and the Pacific and 1,250,000 km^2 in the Antarctic territory.

8. Chile lies between the Andes and the Pacific Ocean. The American part of the country is a narrow strip whose width varies between a maximum of 445 km and a minimum of 90 km. Since the country is located in a geologically unstable area, it frequently experiences strong earthquakes. The southern part of the country, to the south of latitude 41°30', is highly fragmented, with many islands.

9. In the American part of the country, the terrain is rugged and mountainous. No more than 20 per cent of the country is flat, and there are three main morphological features: the Andes range to the east, the Costa range to the west and, between them, the intermediate depression, crossed by mountain chains at a number of points. In the Andes there are major peaks, many of them volcanic, over 6,000 metres in height. The Costa

range is lower and runs parallel to the Andes. Between them is a flat desert area, stretching from the border with Peru to the Copiapó river. This area contains the world's largest saltpetre deposits and other minerals are also mined, Chile being the world's leading copper producer. Extending from the north of Santiago down as far as Puerto Montt is a fertile valley, where most of the country's farming and livestock-raising activities are concentrated. To the south, the geography is complex (gulfs, channels, estuaries and islands). There are also many rivers, but they can only be navigated by small boats.

10. Chile has a very varied climate. The factors that have the greatest influence on the climate are latitude, the sea and altitude. The Atacama desert is one of the driest places on Earth. From the Bio-bio river to the Gulf of Corcovado the climate is Mediterranean. Further south it is a rainy, maritime climate. In the interior it can be classified as a cold steppe climate. Easter Island is subtropical.

11. Chile is bordered by the Pacific Ocean to the west, Bolivia and Argentina to the east, and the Antarctic territory to the south.

2. Religion

12. Eighty-one per cent of the population declare themselves to be Roman Catholic and 19 per cent belong to other denominations, primarily Protestantism.

3. Ethnic groups and languages

13. As far as ethnic origins are concerned, 90 per cent of the population are of mixed race, the Mapuche, Aymara and Rapanui being minority ethnic groups.

14. According to the 1992 census, 493,399 people aged 14 years and over stated that they were of Mapuche, Aymara or Rapanui descent.

15. Of the female population aged 14 years and over, the Mapuche account for over 9 per cent, while Aymara and Rapanui women together make up less than 1 per cent of the total population of the country.

16. The official language of Chile is Spanish, which is spoken by 92 per cent of the population. The remaining 8 per cent also speak Mapudungun, Aymara or Rapanui.

4. Political and administrative divisions

17. For political and administrative purposes, Chile is made up of 12 regions and the metropolitan region.

18. It should be pointed out that a major decentralization process is currently under way.

5. Economy

19. Chile's main natural resources are copper and timber.

20. The main imports are petroleum, sugar and wheat.

21. The main exports are copper, timber and agricultural and livestock products.

22. **Average real per capita income** is US$ 3,160.[1]

23. **Economic growth**: Chile has experienced a decade of uninterrupted economic growth, with an average annual rate of growth of 6.3 per cent over the past four years.

Classification of the country on the basis of the human development index (United Nations Development Programme)

24. According to the **Human Development Report, 1994**, Chile is in eighth place in the 1992 human development index ranking, reflecting a high level of human development within the context of the 97 countries which the United Nations considers to be developing countries.

25. This index uses the following indicators: life expectancy at birth, access to safe water, infant mortality, daily calorie supply, child malnutrition, adult literacy, mean years of schooling, radios, gross domestic product per capita and gross national product per capita.

26. It should be pointed out that for some of these indicators Chile's rank is higher, such as its second place with regard to child malnutrition and its seventh place with regard to mean years of schooling.

27. Nevertheless, if we look at the income-distribution-adjusted ranking, Chile drops four places in the international table. In spite of the per capita income indicated, there are considerable challenges still to be met in order to incorporate into the development process the four million people who continue to live in poverty.

28. One of the most important achievements of the economic and social policy pursued by the two democratic Governments has been to bring over one million Chileans out of poverty.[1]

B. Situation of women[2]

1. Demographic indicators

29. Chile's female population (50.9 per cent) exceeds its male population and the proportion of females is higher than that of males in urban areas, females constituting 52.4 per cent of urban dwellers.

Population, 1992

Female	Male	Both sexes
6,795,147	6,553,254	13,348,401

30. Chile's degree of urbanization has shown a marked increase in the last 40 years. The urban population, which was 60.2 per cent of the total population in 1952, stood at 83.5 per cent in 1992. Of that 83.5 per cent urban proportion, the female/male population split is: 43.3 per cent and 40.2 per cent.

Percentage population breakdown by sex and urban and rural area, 1992

Female		Male		Both sexes	
Urban	Rural	Urban	Rural	Urban	Rural
43.3	7.6	40.2	8.9	83.5	16.5

2. Health

31. Life expectancy for women is 75.79 years, compared with 68.54 years for men.

32. Chile has one of the lowest fertility rates and one of the fastest falling child-bearing rates in Latin America. The average number of births per woman was slightly over five in 1960, but less than three in 1992. The average number of births per woman in both urban and rural areas has dropped, the decline in the case of rural women being greater, although they still have more children. The picture is as follows:

Average number of births per woman, 1992

Total	Urban	Rural
2.39	2.26	3.14

33. Even though fertility has declined in all age groups, the relative proportion of children born to women under 20 years of age has increased. It should be pointed out that abortion is prohibited by law in Chile. The provision that allowed for therapeutic abortion was repealed by the military Government in 1989. According to estimates made by the Ministry of Health in 1990, one in three pregnancies apparently ends in abortion, the annual number of births being 300,000. Figures for 1993 indicate an abortion rate of 4.5 per 100 women.

34. While the military Government was in power, the use of contraceptives was discouraged. However, the birth rate continued to drop, suggesting that the practice of clandestine abortion continued.

35. The Second Alliance Government has not set any fertility targets. The State's family planning policy is focused on improving health conditions for mothers and children and affirms the right of each family to decide on the number of children. This is reflected in a policy of non-discrimination in access to birth control methods, as well as methods to overcome infertility. The Government thus plays an active role in ensuring greater equality of opportunity in families' decision-making on reproductive matters.

36. The first positive case of infection with the human immunodeficiency virus (HIV) was recorded in Chile in 1984. The number of cases has increased gradually for both sexes, although the proportion of women infected is lower than that of men. None the less, although there are no conclusive figures, there has been a considerable increase in positive HIV cases among women. According to the statistics produced by the Ministry of Health, 50 per cent of women affected in Chile have been infected by their stable partner.

37. In 1984 there were six recorded cases of acquired immunodeficiency syndrome (AIDS) in Chile, all involving men. The number of cases rose to 146 in 1990, 3.46 per cent of them involving women. In 1993

the number of HIV cases rose to 200, 5.5 per cent of them affecting women. Although the number of cases fell in 1994, the female proportion infected by the virus has increased to 8.9 per cent.[3]

38. The mortality rate for women is lower than for men, and the number of maternal deaths has fallen from 6.6 per 1,000 live births to 4.1 in 1989, in direct proportion to the improvement of obstetric conditions.

39. Also, the infant mortality rate dropped from 33 per 1,000 live births in 1980 to 16.1 in 1990, the decline being more pronounced in the case of girls than boys.[4]

40. There has been an important switch in health policies from a mother and child concept to an integrated bio-psycho-social approach.

3. Employment and education

41. During the last few decades there has been a significant increase in women's participation in the labour force. Women's share in the labour force was 29.4 per cent in 1980, 31 per cent in 1990 and 34.4 per cent in 1993. The proportions may be greater since there is thought to be considerable underregistration, particularly with regard to the informal sector and seasonal work. During the period under review, the employment of women rose at a faster rate than that of men. Between 1992 and the first quarter of 1993, 114,990 jobs for women were created, representing a growth rate of 8.2 per cent, which is considerably higher than the rate of growth of occupations for men (3.9 per cent).[5]

42. There has been a significant improvement in the educational attainment of girls in Chile.

43. The 1992 population census indicated that 10 per cent of the female population had more than 13 years' schooling, an appreciable increase on the 1982 proportion of 4.8 per cent only.

44. According to this census, women seeking work for the first time have studied to a higher level than men in that situation.

45. Women are joining the labour market at a faster rate than men. Nevertheless, in spite of their better standard of education, women have not substantially improved their position in the labour market. Their work is still seen as being of lesser value and they earn less than men for the same work. The higher the educational level of women wage earners, the greater the wage discrimination.

Wage differences by level of education[6]

Educational attainment	Percentage average earnings from employment for women, compared with men
No academic level completed	82.0
Primary	69.9
Secondary	76.2
University	51.7
Other	No information
TOTAL	75.8

46. Women's participation rate is linked to age, educational attainment and the presence or absence of children. In 1993, their highest rate of participation was in the age range between 25 and 54 years, representing 40 per cent of the economically active female population, peaking at between 35 and 44 years (48.4 per cent).

47. The unemployment rate for women over the last 20 years has been higher than for men, except during the 1982 recession. However, the process of recovery after the economic crisis has been slower for women than for men.

48. For the last few years, the overall unemployment rate is 5.2 per cent, the jobless rate having been 4.2 per cent for women and 4.4 per cent for men.[7]

4. Poverty and heads of household

49. In 1990, when the first Alliance Government took office, the number of indigent or non-indigent poor in Chile totalled 5,202,962, including 2,724,270 women. These figures have gradually decreased to a total of 4,369,681 poor, of whom 51.8 per cent are women.[8]

50. Even though poverty among women fell by 7.4 points in the period 1990-1992, on a percentage basis it is still greater. This means that there are 3.6 per cent more indigent and non-indigent poor women than men in those categories.[9]

51. According to the 1992 survey of socio-economic trends (CASEN), 9 per cent of Chileans are indigent, but this situation affects women (9.2 per cent) by 0.5 points more than men (8.7 per cent).

52. It can thus be stated that Chile shares with the rest of Latin America the problem of the feminization of poverty, that is to say the increasing proportion of women and of female-headed households in the poorest categories.

53. One in four households in Chile is currently headed by a women (25 per cent), a statistic that is linked to the increase in separations and unmarried mothers.

54. Households headed by women tend to be poorer. Women heads of household predominantly have poorly paid jobs, are extensively involved in the informal sector and do fewer hours' paid work per week.

55. The average income of households headed by women is 71.3 per cent of that of households headed by men. The discrepancy is even greater in regard to individual income: female heads of household earn on average less than half (45.1 per cent) the income of male heads of household. In addition, the number of people bringing income into the household is smaller.

5. Violence against women

56. The issue of violence against women was first raised in Chile in 1986, at the initiative of feminist organizations, following the realization that violence against women constitutes a serious social problem, given the frequency with which it occurs and the repercussions which it has, both for the victim and for society as a whole.

57. The survey with which SERNAM initiated this area of work in 1991, as part of the National Programme for the Prevention of Domestic Violence, recorded that 26.2 per cent of the women interviewed acknowledged that they had experienced physical violence and 33.5 per cent psychological violence.[10] According to additional information provided by the Women's Rights Information Centres, the proportion of women victims of violence who fail to report the fact is 12 per cent.

6. Participation in political and social life

58. In general, women have held few positions in the executive branch. The first woman minister was appointed in 1952 and, in all, there were only seven women ministers, compared with 509 men, up to 1992. During the military Government (1973-1990), there were two women ministers, one holding two different posts. In 1990, when the Government of the Alliance of Parties for Democracy first took office, the only woman in the cabinet was the minister in charge of SERNAM. The second Alliance Government (1994) has three women ministers (Justice, SERNAM and National Property), which is a significant step forward.

59. Even though the number of women in high-level ministerial posts (excluding offices of under-secretary) is small, there is a marked difference between the proportion of women who served in the first Alliance Government and who served in the military Government. In 1986, 11.6 per cent of the main ministerial posts were occupied by women and that percentage rose to 22.4 per cent in 1993. After the restoration of democracy, there were more women at intermediate management levels in ministries (32.5 per cent in 1993), indicating a conscious effort by the authorities to rectify this discrepancy gradually in respect of middle- and high-ranking posts. With reference to political participation, in 1992, with the return to democracy, 16 per cent of the total number of candidates for the posts of mayor and councillor were women. Of the total number of councillors elected, 11.9 per cent are women. Only 5.4 per cent of all mayors are women.

60. There have traditionally been few women in the legislative branch also. In the period 1990-1994, there were only three women senators and nine women deputies (6.4 and 5.8 per cent respectively).

61. From 1950 to the present time, the presence of women in the judicial branch has been increasing, but is concentrated at certain levels. It should, however, be pointed out that a woman has been appointed judge of the court of appeal for the first time. On the other hand, there has never been a woman on the supreme court bench (category one).

62. Although the participation of women in the political parties is lower than that of men, it is showing an upward trend. In some parties women account for between 40 and 50 per cent of the total membership. The strength of the women's movement during the military period and their leaders' subsequent joining of the parties have made it possible to include social and political discrimination against women on the agenda. There are nevertheless few women in senior posts.

63. Similarly, the low levels of representation of women in university student federations and unions are indicators of the absence of women from decision-making posts in social organizations. This is a challenge that has to be faced by Chilean society as a whole, and by women in particular, and be addressed by SERNAM, in its capacity as a public forum for debating and taking action to deal with the issue of inequality between women and men, which goes beyond the private sphere and extends into the realm of government and the political arena.

C. Political and institutional framework of the country

1. General political background

64. Democracy returned to Chile in 1989 after 17 years of military rule. The first Government of the Alliance of Parties for Democracy was headed by Patricio Aylwin (1990-1994). That period saw the beginning of a political transition that has specific features, being dependent on the agreements that can be reached, with an institutional structure that still has authoritarian elements as a result of laws inherited from the previous regime.

65. Until the institutional and political crisis that led to the breakdown of the Chilean political system in September 1973, the country was governed by the 1925 Political Constitution.

66. As from 1973, the ruling military Junta acted on a collegiate basis, exercising constitutional and legislative powers by means of decree laws that superseded and radically changed the Constitution.

67. Under Supreme Decree No. 1.064 a commission was established in November 1973 to study and prepare a preliminary draft Political Constitution, which was the subject of a plebiscite and adopted on 11 September 1980.

68. The first step on the way to institutional change occurred in October 1986 with the constitutional reform under the Constitutional Organic Law on Electoral Registration.

69. On 5 October 1988 a presidential plebiscite was held on Augusto Pinochet's candidacy, put forward by the Junta of institutional commanders, for an eight-year term of government. The result of the plebiscite was a victory for the "No" campaign and a rejection of the proposal by 54.7 per cent of the votes cast.

70. Transitional provision 29 of the Constitution automatically extended Augusto Pinochet's term of office for one year as from 11 March 1989.

71. Subsequently, as part of the political negotiations, a plebiscite was held in July 1989 to approve a series of constitutional reforms delimiting the political transition to democracy.

72. Between March 1989 and March 1990, still under the Pinochet Government, a number of laws were promulgated, restricting the scope of legislative action of the democratically elected Government that would take office in March 1990. This obliged Patricio Aylwin, who was elected with 55.2 per cent of the votes, to govern with a Parliament in which there were nine senators who had been appointed by Augusto Pinochet for a period of eight years, under article 45 of the Constitution.

73. As can be seen from the information supplied,[11] the presence of the appointed senators means that the political opposition has numerical superiority in the Upper House. This factor, coupled with the provisions relating to a qualified quorum for the adoption of different types of laws, produces a situation in which it is very difficult to legislate without the agreement of the opposition (even if it is a minority opposition), with its effects on the pursuit of government action, including that relating to the rights and advancement of women.

74. This period is also marked by the need to maintain the civilian and military balance so as to be able to make progress in implementing the necessary changes to stabilize democracy.

2. Development policy

75. The Governments of the Alliance of Parties for Democracy, headed by Patricio Aylwin (1990-1994) and Eduardo Frei, have opted for a strategy of pursuing development with equity, maintaining concern for macroeconomic balances that had predominated in the policy of the military Government.

76. The main challenge successfully overcome by the Government of Patricio Aylwin was to achieve the political normalization of Chile, so that the transition to democracy could be made with no destabilizing effects.

77. The Government of Eduardo Frei has concentrated on improving the rate and level of the country's development, with modernization as the main focus.

78. The national tasks defined in the programme established by the Government of President Eduardo Frei Montalva are:

(a) Strengthening of economic development;

(b) Eradication of extreme poverty;

(c) Establishment of a modern labour relations system;

(d) Construction of efficient health and education systems, providing broad coverage and able to meet the requirements of a rapidly growing society;

(e) Pursuit of Chile's international integration.

79. Against this background, the Government has committed itself to carrying out the Plan for Women's Equality, 1994-1999, which will be examined below.

80. From an economic standpoint, the main tasks are:

(a) To bring inflation down, at least to single figures;

(b) To achieve a real growth rate of at least 5.5 per cent in the period 1994-1999;

(c) To promote the job market, by increasing the labour force and employment by 2.5 per cent per annum;

(d) To achieve an annual rate of growth of over 3 per cent in labour productivity;

(e) To bring about a systematic increase in real wage levels;

(f) To achieve a significant increase in the level of consumption of lower-income families, in accordance with the criterion of sustainable opportunities;

(g) To continue the process of expanding trade liberalization, by accelerating internationalization in the areas of finance and investment, and improving levels of competitiveness.

D. Review and prospects

81. During the military Government, the policy towards women was welfare-based, paternalistic and geared to strengthening the traditional patterns regarding the role of women in society.

82. The policy of the authoritarian regime and violations of human rights gave rise to new forms of social organization. The first organizations arose in response to political repression, and women became actively involved in them. Community support organizations, soup kitchens and production workshops were subsequently set up, and at the same time non-governmental organizations were established to examine and deal with women's issues. The feminist organizations and the women members of the political parties linked gender demands to the restoration of democracy. Through all these endeavours, they participated significantly in the re-establishment of democracy.

83. The first democratic Government after the period of authoritarian rule took up some of the most important demands of women and included them on its institutional agenda. It also appointed some women to posts of responsibility and established the National Office for Women's Affairs (SERNAM).

84. The establishment of this new institution is particularly important because it provides a public forum for discussions and initiatives on the inequality between women and men, which is a subject that extends beyond the private sphere into the realm of government and the political arena. The establishment of SERNAM has been fundamental in including the gender dimension in public policies.

85. The review of the decade shows considerable progress in overcoming discrimination against women. None the less, the structural and cultural origins of inequality are still firmly rooted in Chilean society.

86. The Chilean Government has therefore considered it necessary to formulate an equal opportunities policy aimed at reversing the process and bringing about far-reaching cultural and structural changes. It will be reflected in the programmes and initiatives of the next few years.

87. This policy allows for a comprehensive or integrated approach to government involvement and recognizes that discrimination is not caused by partial or short-term factors but has systemic determinants and thus requires such a perspective in action by the State.

88. The launching of this plan is a complicated process which requires close interministerial coordination in order to identify, in conjunction with each sector and agency involved, priority measures that preserve the overall policy vision. This means that each ministry has to examine the measures proposed, prioritize them and include them in its own targets and budgetary planning for the coming years.

89. Of all the stated objectives, the Government intends, through SERNAM, to give priority to efforts aimed at improving women's access to and status in the labour market and at promoting their participation in the social and political spheres and their involvement in decision-making.

90. The progress achieved in this field will produce collateral effects in many other areas over the next few years and will thus act as a pivot for a whole range of changes. Legislation, health and education policies and training will need to be modified. The ways in which children are looked after will also have to be adapted to the new needs and will require a reallocation of tasks between women and men, with the ensuing repercussions on gender and family relationships, which is likely to give rise to different cultural models.

91. However, these changes must go hand in hand with women's increased political participation, particularly in senior and decision-making posts, with a view to their empowerment as a social group and to the advancement of democracy, in so far as their social integration is thereby increased. Such participation helps to change political practices, introduces new analytical perspectives and provides support for the implementation of equal opportunities policies.

92. SERNAM is faced with the tasks of conducting in-depth diagnostic analyses, identifying specific mechanisms that will make it possible to bring about substantial changes, developing an awareness of the need for greater participation by women, and encouraging the training of women leaders at all levels.

93. In the medium term, as part of the process of decentralizing the State administration, the equal opportunities policy links the proposed action to achieve gender equality with the priorities within the regional development strategies, with the aim of producing an impact at the regional and municipal levels.

94. The planned equal opportunities policy covers the next decade, and the Plan for Women's Equality, 1994-1999 is the basic tool for embarking on the task in this first stage. For the next few years it will be necessary to identify other, additional tools.

95. The promotion, development and monitoring of policies is a fundamental responsibility of SERNAM, which is why the necessary strengthening of this institution, as a coordinating body for public policies, is a priority task in the coming years, with the interrelationship between its work strategies and the general development objectives of the country being preserved.

96. This Government's programme includes a commitment to strengthening economic development, eradicating poverty, establishing a modern labour relations system, reconstructing the health and education systems and pursuing the country's international integration.

97. Within the framework of the Government's objectives, SERNAM intends to include equality of opportunities for men and women as a basic, democratic objective for achieving development with equity.

98. Of the objectives and measures pursued by SERNAM and the other sectors of the State, those which are to receive priority in the coming years will depend on the interrelationship between the proposed action under the Equal Opportunities Plan and the priorities defined by the Government, and on those needs and demands expressed by women in the dialogue between the State and civil society that are considered justified in this stage.

99. The achievement of the objectives of the Equal Opportunities Plan will depend on the entire Government's commitment to it and on SERNAM's coordination of it with the different sectors of the executive, legislature and judiciary and with civil society.

100. The effective implementation of the Plan and the pursuit of further positive action in the future will make it possible to fully implement the Convention on the Elimination of All Forms of Discrimination against Women.

101. SERNAM, as the body responsible for public policies during its first period of administration (1991-1993), achieved a number of key objectives: it gave prominence to the subject of discrimination against women as an issue to be addressed in a democracy, it strengthened its institutional structure, and it identified as social problems certain phenomena which had previously remained concealed, such as domestic violence and the situation of female heads of household. The information campaign entitled "Let's make a new deal"

["*Hagamos un nuevo trato*"] also had a major impact in that it offered a new form of relationship between the sexes. During that period, SERNAM succeeded in alerting the public's attention to the issue of women's status in society and within the family, and began to generate awareness of the need for more structural changes that would make it possible to achieve equal rights and opportunities for men and women, with a view to bringing about a society that allows the fuller development of the individual.

III. STATUS OF IMPLEMENTATION OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

102. We should first point out that the 1989 constitutional reform included an important addition to article 5 of the 1980 Constitution. The new wording of section II states that "the exercise of sovereignty recognizes as a limitation the respect for *the basic rights inherent in the human person*. It is the duty of the organs of the State to respect and promote such rights, which are guaranteed by this Constitution, as well as *by the international treaties* that have been ratified by Chile and are currently in force".

103. This new wording has prompted a variety of interpretations. The matter is one of great importance, since this is a provision with constitutional force and, more significantly, it is a provision which concerns the basic principles of institutional order.

104. For many jurists and according to case law, the treaties that contain provisions on human rights were given constitutional force as a result of the 1989 reform, and some even advance the view that such provisions rank above constitutional norms. Nevertheless, other jurists are of the opinion that treaties, including those that deal with human rights, are merely laws and that, therefore, the provisions contained in them merely have the status of laws. In our view, the reform conferred constitutional status on the rights of the human person, as embodied in the treaties, and this applies to human rights and, consequently, to the rights set out in the Convention on the Elimination of All Forms of Discrimination Against Women.

Matters relating to specific articles

Article 1

> *Defines discrimination against women as "any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field".*

105. We should point out that the Convention became law in Chile in 1990 and the definition contained in it is therefore fully applicable.

106. There is no definition of discrimination in civil law or specific enactments.

107. We only have the definition in the Convention itself, but the concept of discrimination is contained in a number of provisions of Chilean law (article 55 of the Civil Code, within the definition of the human person, article 2 of the Labour Code, etc.).

108. In accordance with the system of interpretation of the law under our Civil Code, our understanding of discrimination must therefore be as defined in the Convention.

Article 2

Establishes policies to eliminate discrimination against women and indicates specific measures in each of its subparagraphs (a) to (g).

Subparagraph (a)

109. In article 1 of the Chilean Constitution of 1980 it is stipulated only that "Men are born free and equal in dignity and rights".

110. We are thus aware of the need for the principle of equality between men and women to be expressly embodied.

111. In this connection, during the first Alliance Government (1990-1994), a legislative bill was presented to Parliament at the initiative of the National Office for Women's Affairs (SERNAM), with a proposal amending article 1 of the Chilean Constitution to read "Men and women are born free and equal in dignity and rights".

112. Unfortunately this initiative, by being submitted together with other constitutional amendments of a political nature, was the subject of a general rejection by Parliament.

113. The current Alliance Government has expressly included in its programme the intention to amend the Constitution along these lines, since it is particularly relevant and necessary for the integration of women and for the attainment of their full incorporation on an equal basis in the social, economic, political and cultural life of the country.

114. The Government's programme also expressly sets out the intention to implement the Equal Opportunities Plan formulated by SERNAM, and the latter naturally provides for this reform in the relevant paragraph.

115. SERNAM has accordingly drafted a new bill which amends article 1 of the Constitution to read "Men and women are born free and equal in dignity and rights" and which, in comparison with the previous bill, also includes due protection for this constitutional guarantee by the addition to article 19, paragraph 2, of the following provision: "Any discrimination based on the sex of the individual shall be prohibited".

116. This bill is currently with the Office of the Secretary-General of the Presidency for submission to Parliament in the near future.

117. We think it necessary—and we are working on different fronts: the political arena, communications media, social actors, both male and female, etc.—to support the passage of this bill through Parliament. We should point out that, in our system, a constitutional reform requires a qualified quorum and, as stated in the introduction to this report, the Government does not have such a majority, nor do we have the opposition's express and wide support for this reform proposal.

Subparagraph (b)

118. As regards specific legislation, such as employment law, education regulations, electoral law, law on political parties, etc., these instruments have to conform to the provisions of the Constitution, which guarantees to all persons certain fundamental rights, including the right to life, to equality before the law, to privacy, to education, to health, etc. In addition, according to the Civil Code, all members of the human race are individuals "irrespective of age, sex, birth or status"; consequently, all men and women are entitled to respect, and discrimination of any kind is prohibited. This general provision in all instances includes discrimination on the basis of sex, which enables us in practice to have recourse to the courts in specific and serious cases of discrimination, but we are well aware of the change and significance represented by this constitutional reform, which forms part of our activities as an advisory body.

119. Worthy of particular mention, as specific legislation adopted for the prevention of discrimination against women, is Law No. 19.325, which was published in the *Official Gazette* of 27 August 1994, and which punishes domestic violence. The most noteworthy aspect of this law is that it defined conduct, whether by omission or commission, constituting physical abuse or mental cruelty by one family member towards another, the term being understood in its broadest sense, including legalized partnerships, de facto unions, and also persons not related by blood or marriage but living under the same roof. It established an expeditious and effective procedure before the courts, allowing testimony to be given by members of the household, such as relatives and dependants. The evidence of such persons does not normally qualify as full proof in Chilean law. It also established alternative punishments to imprisonment and fines, such as family guidance and therapy. Moreover, it provides for the two penalties indicated to be commuted, at the request of the offender, to unpaid community service, without affecting his or her usual employment.

Subparagraphs (c), (d) and (e)

120. With regard to effective legal protection against any act of discrimination against women, we must point out that judicial mechanisms exist to protect constitutional guarantees, including equality before the law, and protection against specific instances of discrimination can be secured through these general channels.

121. Another very important aspect is the establishment of a high-level institution to protect and promote such equality and thus to combat discrimination against women, namely the National Office for Women's Affairs (SERNAM), which was set up under Law No. 19.023 of 3 January 1991.

122. The female director of this Office has ministerial rank. She is also a member of the Cabinet of the President of the Republic, as is the female deputy director, who holds a post of under-secretary.

123. From its beginnings, SERNAM has defined a set of programmes to provide support and legal protection for the rights of women. In all regions of the country there is an information centre for women's rights, providing group and individual services. There is a programme on domestic violence, one of whose tasks was to promote the promulgation of Law No. 19.325, mentioned above, and to create an awareness that violence against women in the family is a problem that goes beyond the personal and family domain and is the responsibility of the whole of society, with a priority role to be performed by different public services and authorities, such as the *carabineros*, the health, education and justice services, the municipal authorities, etc., and also various programmes designed to help achieve equal opportunities for women.

Subparagraph (f)

124. The democratic Government has been gradually amending the legislation applicable to the different areas or sectors.

(f) 1.

125. The first legislative measure adopted to signal the importance that the Alliance Governments would henceforth attach to women's issues was the setting up of SERNAM.

126. According to article 2 of the law establishing this institution, its aim is "to collaborate with the Executive in studying and proposing general plans and measures to ensure that women enjoy equality of rights and opportunities with men in the process of political, social, economic and cultural development of the country, while respecting the nature and specificity of women stemming from the natural differences between the sexes, including the due implications of this for family relationships".

127. One of the main functions and tasks assumed by SERNAM is to put forward legal reforms that are designed to improve the status of women in all areas. SERNAM has a legal reform section which examines a variety of subjects with a view to submitting legislative proposals to Parliament, either directly or through other ministries. The following proposals are worthy of mention.

(f) 2.

128. The previous article 15 of the Labour Code, which provided that women could not work in mining, underground or other activities deemed to be beyond their strength or dangerous to the physical or moral condition of their bodies has been repealed (the annulment will take effect on 17 March 1996).

(f) 3.

129. Law No. 19.335, published in the *Official Gazette* of 23 September 1994, decriminalized the offence of adultery, which constituted a major form of discrimination against women, since it provided that any woman who slept with a man who was not her husband committed adultery. However, that offence did not exist for men, its equivalent being concubinage, that is to say, a man's keeping a mistress in his home and causing public scandal. There was also a difference between the punishments.

130. Adultery is currently considered to be an offence against the obligation of mutual fidelity that may be committed by either spouse and incurs only civil penalties.

(f) 4.

131. An improvement has been made in a labour law provision for the protection of maternity which had in practice become a form of discrimination against women and which allowed a mother of a child aged under one year to take leave in the event of serious illness of the child.

132. The situation was changed by Laws Nos. 18.620 and 19.250, which enable either the mother or the father to take such leave, *at the choice of the mother*.

133. Furthermore, the father was granted entitlement to postnatal leave if the mother died in childbirth or before the end of her postnatal leave period.

134. Also, the rights to antenatal and postnatal leave and in general all rights deriving from maternity are granted in the case of adoption of children. This also enhances the social value of the function of the family, since leave is not only granted for medical reasons relating to the mother or child, but also assists the integration of the family and the new member.

135. We consider these provisions to be a great step forward in that they highlight the fact that the duty of child care is a family task or responsibility that must be assumed by both the father and the mother. The statutory norms will therefore no longer constitute an obstacle for working women or a cause of discrimination against them, since they can also have a negative effect on the employment of men. They also implicitly embody the social function of maternity, which must be assumed by society as a whole, through employment and commercial or industrial enterprises.

136. We must point out here that there is a great need for norms such as these to be reproduced in all areas and also for fathers to make use of them in order to put an end to the de facto discrimination that exists, in the field of employment, against women with children or women of child-bearing age.

(f) 5.

137. Under the above-mentioned Law No. 19.335, published in the *Official Gazette* of 23 September 1994, a new property regime for marriage was adopted. This system is designed to correct the deficiencies existing both under the legal regime relating to the joint ownership of property by husband and wife and under the alternative regime relating to the separation of property. Women now enjoy full capacity and, in addition, the assets are shared proportionally when the marriage is terminated.

138. It was initially submitted as a legal regime, that is to say, an arrangement entered into by the mere fact of marriage, but Congress adopted it as an alternative to the two existing regimes.

139. This Law also established the concept of family assets, covering the real property constituted by the main family residence and the movable property furnishing it, in order to protect the family. This concept may be present in any one of the three matrimonial property regimes chosen by the couple.

(f) 6.

140. The filiation bill, which confers equal status on children, regardless of whether their parents are married, has been presented to Parliament by SERNAM and adopted by a large majority in the Chamber of Deputies.

141. At the present time in Chile, children are categorized differently, as legitimate or illegitimate, depending on whether or not their parents are married. If illegitimate children are acknowledged by their parents, they are regarded as born out of wedlock; otherwise, they are simply considered illegitimate and have no rights whatsoever in relation to their parents.

142. Legitimate children enjoy full rights of maintenance, inheritance and social recognition; children born out of wedlock have limited rights of inheritance.

143. Under this legislative bill, evidence of consanguinity for the establishment of paternity is admitted as conclusive proof, and paternity may be established by DNA examination, even against the wishes of the man denying fatherhood.

(f) 7.

144. SERNAM, in conjunction with the Ministry of Justice, has submitted to Parliament a bill amending a range of sex offences, which are currently discriminatory and anachronistic in regard to women. Specifically, amendments are to be made to the definitions of the offences of rape, covering rape of both men and women, and abduction. Also, greater facilities are to be provided for dealing with such offences.

Subparagraph (g)

145. With regard to additional statutory provisions, we believe that the most important is the one relating to the directive from the Ministry of Education requiring educational establishments to allow pregnant students to continue their studies. This rule is, in our opinion, a minimum expression of the observance of the rights of mothers and of women in connection with their reproductive function.

146. In practice, most educational establishments fail to comply with this rule because it does not have the force of law.

147. SERNAM and the Ministry of Education are examining the situation with a view to supporting a legislative bill on the subject. There is a motion on this topic before the Senate, but it does not have the necessary support to become law. We are therefore striving to develop awareness among the public and the various institutions of the country.

148. We have only managed to progress to the level of a regulation or supplementary circular issued by the Ministry, which does not constitute an act of parliament.

Article 3

Legislative and other measures to guarantee the full exercise and enjoyment of human rights

149. Mention has already been made in this connection of the establishment of an institution, by law, at the highest political and administrative level, namely SERNAM.

150. SERNAM's senior officials, i.e. its female director, who has ministerial rank, and deputy director, and the 13 female regional directors, are appointed directly by the President of the Republic.

151. The growing role and importance of this Office can be gauged from the fact that, while its staff numbered 59 in its first year, its authorized allocation for 1994 was a staff of 96 and a budget of 2,898,944 thousand pesos (millions).

152. The Budget Act for this year increased the staff to 117, and the resources amount to 3,616,933 thousand pesos (millions), after allowing for contributions through foreign cooperation, including support from the Governments of Sweden and the Netherlands, the European Union and the World Bank. International cooperation projects are being examined for this year, including one on the subject of adolescent pregnancy and a three-year cooperation project with Sweden, aimed at introducing structural changes to guarantee equality of opportunity between men and women.

153. SERNAM is represented at the highest level in the 13 regions of the country, through the Regional Director, who serves in the Regional Administration. All SERNAM's programmes are conducted at each of

its regional offices in order to reach the entire country and also to enable our efforts to support the regionalization and decentralization policy to which the present Government is committed.

154. During SERNAM's first period of administration, i.e. from 1991 to March 1994, its work was centred, among other tasks, on preparing an equal opportunities plan. The plan proposes a comprehensive, multisectoral approach to correcting inequalities through a series of objectives, measures and actions to be pursued by the different State agencies, as well as by civil society as a whole. These measures fall into the following fields: legislation, the family, education, culture, employment, health, participation and institution-building.

155. The plan is the main focus and contribution of the current SERNAM administration; it was expressly provided for in its current programme, and was submitted by its director to the Office of the President of the Republic.

156. Each ministry involved in the different activities connected with the Equal Opportunities Plan permanently liaises with SERNAM through sectoral representatives; some ministries, such as the Ministries of Labour, Education, Health and Agriculture, have a section specially assigned to gender issues, and in some cases a specific and detailed cooperation agreement has even been concluded between two institutions.

157. Under the legal reform programme, which has already been mentioned, the various legislative bills are submitted and discussed, and work is continually being undertaken on a variety of matters, involving studies of comparative law and of the situation in the different sectors in Chile, with a view to submitting proposals to other ministries. Work is carried out in conjunction with civil, constitutional, employment and penal committees, made up of lawyers specializing in each subject and academics from all the political spheres, in order to achieve consensus and find ways to enable us to bring about the cultural and legislative changes that we are proposing, with a view to guaranteeing equality of opportunities for women.

158. Mention should also be made the impact of SERNAM's work in the different fields of activity in Chile, primarily in the public sphere, since in many municipalities in Chile there is either an office for women's affairs or one of the SERNAM programmes to promote and support women's involvement in community life without discrimination of any kind. Also, public officials working in the areas of local government, the law, health and education and *carabineros* officers have received training in gender issues, throughout the country. This training has primarily covered the subjects of family violence, gender-sensitive development planning, the inclusion of the topic of gender sensitivity in school textbooks without sex-based discrimination, and training of women leaders, among other subjects.

Article 4

> *"Temporary special measures aimed at accelerating de facto equality between men and women ..."* and *"... special measures ... aimed at protecting maternity ..."*

159. Chilean legislation includes a number of provisions of this type that were designed to facilitate the integration of women, particularly in the area of employment. As we have already said, although these provisions initially fulfilled their purpose, they may ultimately obstruct the development and integration of women on a basis of equality.

160. This happened in the case of the provision protecting maternity, and SERNAM is therefore endeavouring to bring about changes to ensure that the legislation protects the entire family and that the reproductive role is focused on both parents, so that the responsibilities of child care and general costs

relating to the maintenance, upbringing and health of children do not have a discriminatory effect against the mother.

161. In this connection, in addition to the legislative changes already referred to in point (f) 4 of this report, concerning article 2 of the Convention, SERNAM is examining a bill to amend the rules currently applying to day-care nurseries.

162. Any enterprise that employs more than 20 women workers must have day-care facilities for those workers' children or is obliged to defray the cost of day-care provision. This has proved to be a negative factor in the hiring of female staff, since many enterprises refuse to employ more than 19 women.

163. Consideration is being given to the possibility of establishing a tripartite fund (Government, employers and workers) to eliminate the distinction between male and female workers in connection with the obligation to provide a nursery for children aged under two years, giving all workers entitlement to day-care facilities for their children and thereby removing the additional costs attached to the employment of women.

164. The same situation applies with regard to postnatal leave and to existing maternity leave of one year after the end of the puerperium.

165. The question of women and political participation is at present being examined with the aim of supporting political and legal measures to promote their participation.

Article 5

Modification of customary patterns of conduct and prejudices or stereotyped roles for men and women; family education, maternity as a social function and common responsibility

166. With reference to this article, the Government is seeking, under an agreement concluded between SERNAM and the Ministry of Education, to train specialist officials in preparing State school textbooks, in order to eliminate from them any aspects that may give rise to gender bias and encourage social stereotyping of the sexes. A model text will be developed this year for approval next year.

167. As regards domestic violence, the Ministry of Education has identified this issue as a focus of its work, extending it beyond the sphere of the family to include also situations that occur in schools, between teachers and students, as well as between students.

168. In the first quarter of 1993, the Ministry of Education convened a commission of experts, which prepared a document entitled "A school for peace" [*"Una escuela para la paz"*], proposing:

(a) Nation-wide action to create awareness of the problem of violence as an aspect of discrimination against women, and efforts to develop mechanisms for solving the problem, a task that has to be tackled by different authorities and ministries;

(b) Training, through the educational system, coordinated by the Ministry of Education, to prevent manifestations of violence in future generations, by developing their capacity for greater understanding and acceptance of the differences between individuals.

169. With regard to family education, which should include a proper understanding of the social function of maternity, a programme is under way to prevent adolescent pregnancy, for which it is hoped that resources will be received from the United Nations Population Fund.

170. SERNAM was asked to participate in the commission responsible for studying education reform, which has been entrusted with the task of re-examining and updating the curricula at the primary and secondary levels. It is of particular interest for SERNAM to be involved, in order to guarantee that the gender perspective is incorporated in the new education programmes and that subjects such as domestic violence, human rights and sex education are included.

Article 6

Measures to suppress all forms of traffic in women and exploitation of prostitution of women

171. The exploitation of prostitution is penalized in Chile by article 367 of the Penal Code, which punishes both the aiding and abetting and the facilitation of prostitution. The penalties are long-term rigorous imprisonment and fines.

172. Also, the Public Health Code lays down that health statistics shall be kept of individuals engaged in the sex trade, and that such individuals may not associate to form brothels.

Article 7

Measures to ensure the participation of women, on equal terms with men, in the political and public life of the country

173. With reference to these measures, we can state that Chile ratified the Convention on the Granting of Political Rights to Women in 1975, but that Convention is based on a formal equality, and it is precisely the Convention on the Elimination of All Forms of Discrimination against Women that seeks to make women's political participation on an equal basis a practical reality, thus permitting and promoting positive action to help accelerate the attainment of gender equality.

174. Another important instrument in this area for Chile is the Plan of Action adopted at the session of the Inter-Parliamentary Council of the Inter-Parliamentary Union held in Paris, in March 1994, to correct imbalances in the participation of men and women in political life. This plan aims to rectify the established situation where "political and parliamentary life remains dominated by men".

175. In line with this document, which was signed by Chile, the examination of the question of promoting the political participation of women is now at an advanced stage.

176. SERNAM's Constitutional Commission has undertaken comparative law studies on legislation that provides for quotas or other mechanisms, with a view to replicating some of the measures that have made it possible in other countries to increase the political participation of women.

177. In practice, some political parties have adopted mechanisms aimed at guaranteeing the presence of women in their executive bodies, either through a special secretariat which is incorporated in the executive or through percentage participation at all their local branches.

Article 8

Measures to be taken by States to ensure to women the opportunity to participate at the international level

178. Chile has played an active part internationally both in matters concerned specifically with women and in matters relating to development where it is necessary to include the gender dimension.

179. In the area of human rights, Chile has a woman member of the Inter-American Commission on Human Rights. Chile has also participated in the World Conference on Human Rights and SERNAM was represented in the official delegation. Chile sent an inter-ministerial delegation, headed by the female director of SERNAM, to the International Conference on Population and Development.

180. SERNAM also took part in the preparatory meetings for the World Summit for Social Development and for the Fourth World Conference on Women, and it provides one of the deputy chairpersons in the Executive Secretariat of the Economic Commission for Latin America.

181. As regards the inter-American system, Chile participates, through SERNAM, in the Inter-American Commission of Women (CIM) of the Organization of American States. Chile has also been actively involved in the preparation of the Convention on the Prevention, Punishment and Eradication of Violence against Women, which it has signed and intends to ratify. In connection with this Convention, an international meeting, in which 11 countries participated, was organized in December 1994 by SERNAM.

182. The process of Ibero-American summits of heads of State is another area where Chile has been involved with regard to the inclusion of the gender dimension, through the preparatory meeting of intellectuals. In connection with these events, the Government agreed to hold a meeting of women ministers in May 1995 in order to discuss items on the Presidents' agenda and to set women's political participation in the framework of the Fourth World Conference on Women.

Article 9

States shall grant women equal rights with men to acquire or retain their nationality

183. Chile's Constitution and laws fully guarantee this equality; the reasons for a woman's change of nationality do not differ from those applying in the case of a man, and women acquire nationality under the same conditions. The equal rights of the father and mother with regard to the nationality of their children is also established (article 10 of the Political Constitution).

Article 10

Refers to the adoption of all appropriate measures to ensure equal rights for men and women in the field of education; the situation in Chile is described below with reference to the aspects outlined in each subparagraph of the article

Subparagraphs (a) and (b)

184. As regards access to education and the same conditions for career and vocational guidance, we must point out that Chilean legislation makes no express distinction in this regard and that, in practice, the current

situation in education is unrelated to the question of access, since women have access to the different levels of education on a basis of equality.

185. Special mention should be made of the matter of pregnant students. Up to 1991, the situation in Chile was governed by a circular, issued by the Ministry of Education, which laid down that students at day establishments could not continue their studies if they became pregnant but would have to study under the night school system.

186. The circular was superseded in February 1991 by Ministry of Education circular No. 247, which expressly provides that pupils who change their marital status and/or become pregnant shall finish the current school year at the same establishment as regular students, and sets out a number of measures to ensure and encourage the completion of their studies.

187. None the less, since the text in question is merely a circular, many educational establishments do not comply with this rule. If the provision is to be made general and compulsory, it will be necessary to promulgate a law.

188. Currently before Parliament is a parliamentary bill whose wording states that "pregnant students or lactating mothers shall have access to educational establishments at any level and be entitled to remain therein, subject to their fulfilling the general requirements for admission to and continuation of studies in such establishments ...". The Ministry of Education and SERNAM are liaising with a view to supporting the motion under the best possible conditions. It will be necessary to work on the matter with the different social actors, political parties and, in particular, the Catholic Church, which has considerable influence in the field of education and does not support the legislative proposal.

Subparagraph (c)

189. The problem of inequality arises from the content of the education programmes at the different levels and from the stereotyped concepts of the roles of men and women. A commission of the Ministry of Education is for the first time studying course content from this perspective. SERNAM has asked to participate in this commission since the highest importance is attached to changing the curricula, particularly with regard to gender roles and sex education.

190. There is a gender and development training programme, aimed in particular at the education sector, and an agreement was concluded in 1994 between the Ministry of Education and SERNAM. The Ministry of Education, through its teacher skills development unit, is receiving the training and has undertaken to prepare a model guide to non-sexist education, for experimentation in 1995, with a view to correcting school textbooks currently in use.

Subparagraphs (d) to (h)

191. In Chile there are no laws or regulations which specify different conditions for women and men as regards access to scholarships, continuing education, literacy programmes, sports, etc., but we must point out that this is merely the formal legal position and that, on a practical level, the Government, through SERNAM and its various activities (seminars, support programmes for female heads of household, employment training, training for public officials in education, etc.), is endeavouring to counteract the trend of traditional practices by establishing conditions to bring about the full implementation of the legislation, on the basis of the principles set out in the Convention on the Elimination of All Forms of Discrimination against Women.

Article 11

Paragraph 1 and its various subparagraphs establish women's right to work, on a basis of equality with men; paragraph 2 deals with measures to prevent discrimination on the grounds of marriage or maternity and to ensure women's effective right to work

192. As previously mentioned, the Political Constitution expressly includes among its constitutional guarantees the freedom to work and the protection of labour, and it provides that any discrimination not based on personal suitability or capability is prohibited. It also makes provision for the right of all individuals to social security. As already stated, the definition of the individual stipulates that there must be no distinction based on race, sex, origin or status.

193. Article 2 of the Labour Code lays down that "any discrimination, exclusion or preference based on reasons of race, colour, sex or trade-union membership ... is contrary to the principles of labour legislation. Consequently, no employer may make employment dependent on such circumstances".

194. The right to free choice of employment is also enshrined in the legislation. We have already mentioned the protection which Chilean law affords to the reproductive function and also the present Government's steps to change the way in which such protection has hitherto been treated, taking account of the social function of the family and with a view to correcting the distortions that have arisen regarding women's participation in the labour force.

195. With reference to discrimination on the grounds of maternity or marriage, the employment legislation fully conforms to the Convention, since the Labour Code contains a specific paragraph on the protection of maternity, which applies to all workers, in both the private and the public sectors.

196. These regulations also prohibit the dismissal of women on the grounds of pregnancy and provide for maternity leave of up to one year after the end of the puerperium.

Article 12

Measures to eliminate discrimination against women in the field of health care and ensure free services in connection with pregnancy, antenatal and postnatal care, confinement and lactation

197. The Political Constitution guarantees to all persons the right to protection of their health.

198. Chile has both a State and a private health system.

199. Under the State system, the provision of free-of-charge care during pregnancy, confinement and the postnatal period is established by law. Breast-feeding is encouraged and supplementary milk is provided for children up to the age of six years at State clinics.

200. This entitlement is established for all children under the age of six years, whether their mothers belong to the State or to the private system, and is provided through the Ministry of Health.

201. All working mothers are entitled, under both the State and the private systems, to an allowance and antenatal and postnatal leave, funded by the Government.

Article 13

Measures to eliminate discrimination against women in economic and social life, and with regard to family benefits, bank loans and participation in sports and cultural life

202. In Chile there is equality of access to family benefits; also, allowances are generally available for lower-income households and, given the phenomenon of the feminization of poverty, the beneficiaries of such allowances are usually women.

203. With reference to access to bank loans, women whose access is restricted are those who have entered into marriage under the system of joint ownership of property, but this system has one major exception, namely the private professional assets of a woman who has an occupation separate from that of her husband. The property which such women acquire with the proceeds of their work is treated as separate property, and they therefore enjoy full capacity.

204. In this connection, we regard as important the publicizing of the new regime applying to the sharing of assets acquired through marriage, as already referred to in subsection (f) 5 of this report dealing with article 2.

Article 14

Refers in particular to the problems faced by rural women; in general, States shall provide access to health-care facilities, literacy training, social security, agricultural loans, etc.

205. The Government is concerned about the rural sector and, in particular, the situation of rural women, and the Ministry of Agriculture has a special section to deal with women and the problems facing them. SERNAM is liaising with that section with a view to formulating joint policies and providing training on gender and development issues for the various agencies working in the rural sector, particularly rural credit and development institutions. There is also a programme which covers several farming regions of the country, providing comprehensive assistance for female seasonal workers in the areas of child care, training, medical treatment and legal aid.

206. The Ministry of National Property has a special programme for regularizing deeds of ownership in the rural areas in order to establish title to land and to allow many irregular owners in these regions to have access to credit and other benefits.

207. SERNAM and the Ministry of National Property have concluded agreements to coordinate their activities, particularly by means of information hand-outs and advice provided by the regional offices, so that as many women as possible who own rural properties without regularized deeds can have access to the programme, which receives funding from the World Bank.

Article 15

States to recognize the equality of men and women before the law; identical legal capacity of men and women

208. As we have mentioned, the Government is in a position to submit a constitutional reform bill that expressly establishes equality between men and women.

209. The legal capacity of women is identical to that of men under Chilean law.

210. None the less, there is an exception to this statutory norm in the case of marriage entered into under the regime of joint ownership of property.

211. Until 1989, when the Civil Code was amended (Law No. 18.802), a woman who married under the joint property regime suffered from relative incapacity. Since the reform, such women now enjoy full legal capacity, but the husband continues to administer the joint estate, with the related legal restrictions. Restrictions also continue to exist for a woman with regard to property which she inherits or which she owned before marriage, since such property is also administered by the husband.

212. The possible financial regimes between spouses are: joint ownership, separation of property, and sharing of assets acquired through matrimony. The mere act of marriage automatically gives rise to operation of the joint ownership regime, but, according to the law, when the marriage is celebrated, the competent civil registration official must ask the spouses which alternative they choose, and the civil registry provides guidance courses to explain the different financial regimes.

213. In 1989 there was a change in the provisions that laid down that the wife owed obedience to her husband and had his domicile. It is now stipulated that both spouses have a mutual duty of loyalty and support. The provision on domicile was abolished and now each spouse has his or her own domicile.

Article 16

Adoption of measures to eliminate discrimination against women in matters relating to marriage and the family

214. In Chile there are no discriminatory restrictions for women when entering into marriage or in their free choice of a spouse.

215. Until the Civil Code was amended in 1989, the husband had a duty to protect his wife and a wife had a duty to respect her husband. A woman who entered into marriage under a joint ownership regime suffered from a relative legal incapacity, and her legal guardian was her husband. These differences of responsibility in marriage have been eliminated; the wife now enjoys fully capacity and the obligations of both spouses with regard to the duties of fidelity, care and support have been made equal.

216. As far as rights regarding children are concerned, there is inequality in that parental authority (all rights relating to the property of the child and all rights relating to the person of the child) are exercised by the father or, in his absence, by the mother. The bill submitted by SERNAM, which is currently before the Senate, amends this provision and stipulates that parental authority shall be exercised by both the father and the mother irrespective of the financial system in operation between the spouses.

217. With regard to personal rights, women and men have equality of conditions: both sexes have the freedom to choose an occupation or profession and to keep their family name when entering into marriage (but children put their father's name first). Before Law No. 18.802 was promulgated in 1989, a husband could object to his wife's pursuing a specific occupation, article 150 of the Civil Code having now been repealed.

218. As regards the rights of the spouses in respect of the ownership, administration, enjoyment and disposition of property, including where free of charge, we should make it clear that there is an exception to the existing equality in one of the financial regimes, i.e. that of joint ownership.

219. The rule concerning marriages celebrated abroad was amended in 1989. At present, when the marriage is recorded in the civil register, the system of separate assets is understood to apply, unless otherwise stated by the spouses; consequently, if the spouses wish to opt for the joint ownership regime, they must expressly make that known. Before the reform, the situation was exactly the opposite.

220. Finally, under Chilean law (article 4 of the Civil Marriage Act), marriages between children (boys under the age of 14 years and girls under the age of 12 years) are not valid. All marriages must be celebrated before a competent civil registry official, who shall duly record the ceremony.

Notes

1. Presidential message, speech by President Eduardo Frei on 21 May 1994.

2. National Statistical Institute, *Mujeres de Chile: Radiografía en números*, March 1994.

3. National Commission on AIDS, Ministry of Health, 1995.

4. Table: Main causes of death, broken down by sex, all ages, annex (Chile, page 28).

5. SERNAM/PET, *Informe de coyuntura. El empleo femenino en el primero semestre de 1993.*

6. National Statistical Institute, *Mujeres de Chile: Radiografía en números*, page 51.

7. National Statistical Institute, National Employment Survey, 1993 (unpublished).

8. Ministry of Planning and Cooperation, Poverty in Chile, 1987-1992, June 1994.

9. Eda Cleary: *La dimensión de género y pobreza*, SERNAM, internal document, 1994.

10. SERNAM, *Prevalencia de la violencia intrafamiliar y la situación de la mujer en Chile*, 1992.

11.

	SENATORS	**DEPUTIES**
Party	Number	Number
Pacto Concertación por la Democracia	22	66
Pacto Democracia y Progreso	16	46
Pacto Unión Democrática		8
Appointed senators	9 (10)	
TOTAL	47 (48)	120